

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAVIER CRUZ, on behalf of himself
and all other persons similarly situated

Plaintiff,

07 Civ 6923

ANSWER

-against-

BACK STAGE DELI, Inc., a New York
corporation,

Defendant.

Defendant, by its attorney, Robert Koppelman, answers the Complaint as follows:

NATURE OF THE ACTION

1. Deny.
2. Deny.
3. Admit.
4. Admit.
5. Admit.

THE PARTIES.

6. Admit that, as alleged, Plaintiff worked as a delivery worker, etc., at some unspecified time and place and for an unspecified employer. Deny knowledge or information sufficient to form a belief as to Plaintiff's age or residence.

7. Deny.

COLLECTIVE ACTION ALLEGATIONS

8. Admit that Plaintiff seeks to prosecute this action as alleged.

9. Deny.

2 10. Deny knowledge or information sufficient to form a belief as to the truth of the allegations.

11. Deny.

12. Deny knowledge or information sufficient to form a belief as to the truth of the allegations.

13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations.

FIRST CLAIM FOR RELIEF

15. Deny.

16. Deny.

17. Deny.

18. Admit.

19. Deny.

20. Deny.

21. Deny.

22. Deny.

23. Deny.

24. Deny.

25. Deny.

SECOND CLAIM FOR RELIEF

26. Deny.

27. Deny knowledge or information sufficient to form a belief as to the truth of the allegations.

28. Deny knowledge or information sufficient to form a belief as to the truth of the allegations.

29. Deny.

30. Deny.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant is exempt from the requirements of FAIR Labor Standards Act.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred i whole or in part by the applicable statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims cannot be brought in a class action.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff does not satisfy the prerequisites of Rule 23 of the Federal Rules of Civil Procedure and cannot maintain a class action.

SIXTH AFFIRMATIVE DEFENSE

The potential class is not numerous.

SEVENTH AFFIRMATIVE DEFENSE

Defendant at all times acted in good faith and had reasonable grounds to believe that any

alleged acts were not in violation of law.

WHEREFORE, Defendant respectfully requests that the Court dismiss the Complaint, grant Defendant its costs, fees, including attorney's fees, and disbursements in connection with the defense of this action and grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/

ROBERT KOPPELMAN
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